

§ 1.85 Corrections to drawings.

(a) A utility or plant application will not be placed on the files for examination until objections to the drawings have been corrected. Except as provided in § 1.215(c), any patent application publication will not include drawings filed after the application has been placed on the files for examination. Unless applicant is otherwise notified in an Office action, objections to the drawings in a utility or plant application will not be held in abeyance, and a request to hold objections to the drawings in abeyance will not be considered a *bona fide* attempt to advance the application to final action (§ 1.135(c)). If a drawing in a design application meets the requirements of § 1.84(e), (f), and (g) and is suitable for reproduction, but is not otherwise in compliance with § 1.84, the drawing may be admitted for examination.

(b) The Office will not release drawings for purposes of correction. If corrections are necessary, new corrected drawings must be submitted within the time set by the Office.

(c) If a corrected drawing is required or if a drawing does not comply with § 1.84 at or after the time an application is allowed, the Office may notify the applicant in a notice of allowability and set a three-month period of time from the mailing date of the notice of allowability within which the applicant must file a corrected drawing in compliance with § 1.84 to avoid abandonment. This time period is not extendable under § 1.136 (*see* § 1.136(c)).

[65 FR 54670, Sept. 8, 2000, as amended at 65 FR 57055, Sept. 20, 2000; 69 FR 56541, Sept. 21, 2004; 78 FR 62405, Oct. 21, 2013]

§ 1.88 [Reserved]**MODELS, EXHIBITS, SPECIMENS**

AUTHORITY: Secs. 1.91 to 1.95 also issued under 35 U.S.C. 114.

§ 1.91 Models or exhibits not generally admitted as part of application or patent.

(a) A model or exhibit will not be admitted as part of the record of an application unless it:

(1) Substantially conforms to the requirements of § 1.52 or § 1.84;

(2) Is specifically required by the Office; or

(3) Is filed with a petition under this section including:

(i) The fee set forth in § 1.17(h); and

(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.

(c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

[62 FR 53190, Oct. 10, 1997, as amended at 65 FR 54670, Sept. 8, 2000; 69 FR 56541, Sept. 21, 2004]

§ 1.92 [Reserved]**§ 1.93 Specimens.**

When the invention relates to a composition of matter, the applicant may be required to furnish specimens of the composition, or of its ingredients or intermediates, for the purpose of inspection or experiment.

§ 1.94 Return of models, exhibits or specimens.

(a) Models, exhibits, or specimens may be returned to the applicant if no longer necessary for the conduct of business before the Office. When applicant is notified that a model, exhibit, or specimen is no longer necessary for the conduct of business before the Office and will be returned, applicant must arrange for the return of the model, exhibit, or specimen at the applicant's expense. The Office will dispose of perishables without notice to applicant unless applicant notifies the Office upon submission of the model, exhibit or specimen that a return is desired and makes arrangements for its return promptly upon notification by the Office that the model, exhibit or

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specimen is no longer necessary for the conduct of business before the Office.

(b) Applicant is responsible for retaining the actual model, exhibit, or specimen for the enforceable life of any patent resulting from the application. The provisions of this paragraph do not apply to a model or exhibit that substantially conforms to the requirements of § 1.52 or § 1.84, where the model or exhibit has been described by photographs that substantially conform to § 1.84, or where the model, exhibit or specimen is perishable.

(c) Where applicant is notified, pursuant to paragraph (a) of this section, of the need to arrange for return of a model, exhibit or specimen, applicant must arrange for the return within the period set in such notice, to avoid disposal of the model, exhibit or specimen by the Office. Extensions of time are available under § 1.136, except in the case of perishables. Failure to establish that the return of the item has been arranged for within the period set or failure to have the item removed from Office storage within a reasonable amount of time notwithstanding any arrangement for return, will permit the Office to dispose of the model, exhibit or specimen.

[69 FR 56542, Sept. 21, 2004]

§ 1.95 Copies of exhibits.

Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Director.

§ 1.96 Submission of computer program listings.

(a) *General.* Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification. A computer program listing for the purpose of this section is defined as a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform

a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.

(b) *Material which will be printed in the patent:* If the computer program listing is contained in 300 lines or fewer, with each line of 72 characters or fewer, it may be submitted either as drawings or as part of the specification.

(1) *Drawings.* If the listing is submitted as drawings, it must be submitted in the manner and complying with the requirements for drawings as provided in § 1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.* (i) If the listing is submitted as part of the specification, it must be submitted in accordance with the provisions of § 1.52.

(ii) Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.

(c) *As an appendix which will not be printed:* Any computer program listing may, and any computer program listing having over 300 lines (up to 72 characters per line) must, be submitted on a compact disc in compliance with § 1.52(e). A compact disc containing such a computer program listing is to be referred to as a “computer program listing appendix.” The “computer program listing appendix” will not be part of the printed patent. The specification must include a reference to the “computer program listing appendix” at the location indicated in § 1.77(b)(5).

(1) Multiple computer program listings for a single application may be placed on a single compact disc. Multiple compact discs may be submitted for a single application if necessary. A separate compact disc is required for each application containing a computer program listing that must be submitted on a “computer program listing appendix.”

(2) The “computer program listing appendix” must be submitted on a compact disc that complies with